Biden's Anti-American Energy Agenda

"Number one, no more subsidies for fossil fuel industry. No more drilling on federal lands. No more drilling, including offshore. No ability for the oil industry to continue to drill, period, ends, number one." – Joe Biden.

Since President Biden has taken office, the prices of crude oil and many energy commodities have risen to the highest levels in more than a decade. U.S. oil production has declined by more than 1.5 million barrels per day from peak production in 2020, while our dependence on imported energy, including from Russia, has grown. Over the last year, President Biden has issued multiple Executive Orders and directed Federal agencies to take regulatory actions that have directly contributed to domestic energy shortages and price increases.

President Biden and administration officials have actively discouraged domestic energy infrastructure investments, instead turning to Russia, Saudi Arabia, Iran, and Venezuela to increase oil output. Taken together, these actions and statements have a chilling effect on U.S. energy infrastructure investments and jobs.

- **Day 1 Climate Change Executive Order:** On President Biden's first day in office, he issued Executive Order (EO) 13990, entitled "Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis," which directed agencies to review and revoke Trump's pro-American energy rules and actions throughout the Executive Branch.[1] The EO also requires agencies to take action to increase emission regulations.

- **Monument Designations:** The Antiquities Act of 1906 (54 U.S.C. §§320301-320303) authorizes the President to proclaim national monuments on federal lands that contain historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest. President Biden has signed several proclamations to expand national monuments that alters the management of millions of acres of Western land. This prevents access to federal land under the guise of National Monument designations, which reduces the ability to produce American energy domestically.

- **ANWR:** The Department of the Interior (DOI) suspended all activities related to the implementation of the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge (ANWR) pending completion of a comprehensive analysis under the National Environmental Policy Act (NEPA). Secretarial Order 3401 directs the Department to initiate a comprehensive environmental analysis and the Department is notifying lessees that it is suspending oil and gas leases in the Arctic Refuge, pending such review. [2]

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- **Keystone XL Pipeline:** On President Biden's first day in office, he issued Executive Order (EO) 13990, entitled "Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis," which revoked the key permit for the Keystone XL pipeline. The Keystone XL pipeline would have safely transported more than 800,000 barrels of oil per day from Canada to U.S. refineries on the Gulf Coast. America would be in a much better position today if we were importing that oil from Canada, instead of Russia.

  President Biden waived sanctions for our adversary's energy project, the Russian Nord Stream 2 Pipeline, which signaled a prioritization of Russian energy security over U.S. energy security.

- **WOTUS:** The President's EO 13990 revoked certain Trump administration EOs, including those related to WOTUS and the Antiquities Act, which decreased regulations on federal land and expanded the ability to produce energy domestically.

- **Climate Financing:** On January 27, 2021, President Biden issued Executive Order (EO) 14008 entitled "Tackling the Climate Crisis at Home and Abroad," which attacked the energy industry by promoting "ending international financing of carbon-intensive fossil fuel-based energy while also advancing sustainable development and a green recovery." [3]

  Fossil fuels account for 80 percent of U.S. consumption and will account for the largest share of domestic and global consumption for many decades to come. The United States is the number one producer of oil and gas in the world, and it is in our national security interest to maintain our global leading position. China controls more than 80 percent of the critical minerals needed to manufacture renewables and batteries. Unless we cut the red tape to allow for domestic mining and processing of minerals, we will trade American energy security for dependence on China.

- **Green the Fleet:** On January 27, 2021, President Biden issued the EO 14008 entitled, "Tackling the Climate Crisis at Home and Abroad," that calls on federal agencies to facilitate carbon neutrality by 2025 with a particular focus on pushing EVs for federal, state, and local governments. This call for a "green fleet" further increases our dependence on China and their supply chain, and thus gives China a course of power over the U.S. economy.

- **Biden "Clean Cars and Trucks" EO:** On August 5, 2021, President Biden signed EO 14037, "Strengthening American Leadership in Clean Cars and Trucks," which established a new target to make half of all new vehicles sold in 2030 zero-emissions vehicles, including battery electric, plug-in hybrid electric, or fuel cell electric vehicles.[4] The EO also kicked off the development of more stringent long-term fuel efficiency and emission standards.

- **Wind Production:** EO 14008 also pushes for double the wind production on federal lands by 2030. Offshore wind projects in the U.S. are subject to state and federal laws as well as county and municipal requirements which require the project owner to procure certain environmental, land use, marine and aviation permits and approvals to construct or operate and contain various compliance obligations. Some projects have struggled to complete development in the face of these complex contractual and legal obligations and the opposition of local residents.

  The Biden administration shows support and encouragement toward offshore wind development. But, despite support from the federal government and several state governments, developers of offshore wind in the U.S. will continue to face material challenges, including strict regulation, high lease costs, limited existing infrastructure, concerns about long-term environmental impacts, opposition from neighboring residents, and, more broadly, increased reliance on China.

- **Oil & Gas Lease Moratorium:** Through EO 14008, President Biden announced a temporary pause on the auction of new oil and gas leases on public lands or in offshore waters while the Biden administration reconsiders oil and gas permitting and leasing practices. The review will consider potential climate and other impacts of current federal oil and gas permitting/leasing practices and whether to take action to account for corresponding climate costs. In response, the Department of the Interior's Bureau of Land Management (BLM) and the Bureau of Ocean Energy Management (BOEM) cancelled the public comment period for the Draft Environmental Impact Statement being prepared for the proposed lease sale of acreage in Cook Inlet, Alaska and rescinded the planned lease sale of acreage within the Gulf of Mexico.

  BLM issued several notices during January, February, and March, postponing first quarter lease sales previously scheduled to be held during March and April for federal lands located in Colorado, North Dakota, Montana, Nevada, New Mexico, Oklahoma, South Dakota, and Utah, as well as states located east of the Mississippi River. BLM also issued notice during April that no second quarter lease sale will be held for certain states.

  These states have challenged the postponed sales by filing suit against President Biden and various officials within the Department of the Interior (DOI). The plaintiffs argue the postponed sales are arbitrary and capricious under the Administrative Procedure Act (APA) and must be vacated.

  The detrimental ban to leasing that President Biden imposed hinders production. Regular leasing signals that federal acreage is open for business. It is impossible to generate confidence or investment in production today when future production is blocked by the administration. Leaseholders have nominated parcels for sale that are needed to develop currently held leases. Many such projects cannot move forward until President Biden holds additional sales.

The Biden Administration's assault on oil and gas leasing on federal lands continued recently with DOI's cancellation of three upcoming offshore oil and gas leases. Two of those leases were for the Gulf of Mexico, and one was for a previously planned Cook Inlet sale in Alaska. Consequently, millions of acres of offshore waters will not be developed for oil and gas production. The Biden Administration's five-year offshore drilling plan expires next month, and DOI has yet to issue a new one.

- **Permit Delays for Drilling on Federal Lands:** There are approximately 9,173 outstanding approved permits known as Applications for Permits to Drill (APDs) and leases.

  Leases currently considered "non-producing" may yield production in the near term, as exploration and operations need for future production are ongoing. Operations cannot commence with only a single permit in hand. Additionally, there are 4,621 permits to drill awaiting approval by the Department of the Interior's Bureau of Land Management. These permits could be approved and enable companies to move forward with development.

  The decision to use an APD is a complex calculation based on the availability of permits, rights-of-way (ROW), leased acreage, and equipment, among other business considerations.

  Because of the uncertainty of operating on federal lands, companies must build up a sufficient inventory of permits before rigs can be contracted to ensure the permits stay ahead of the rigs. Companies drill wells in a matter of days and rigs are very expensive, so it's a delicate balancing act.

  The federal permit to drill is not the only government approval required. Rights-of-way (ROW) can take years to acquire before companies can access their leases and put in natural gas gathering systems. With the pressure not to flare from regulators and investors, most companies cannot drill before gathering lines are in place. Timely approvals of ROWs would enable companies to develop sooner.

  The Biden administration has worked with anti-oil-and-gas activists to stop or slow pipeline infrastructure. Without pipelines to move the oil and natural gas produced, wells cannot be developed.

  Capital must be acquired. Activist investors, encouraged by an administration intent on expanding its financial regulatory powers, have worked to de-bank and de-capitalize the industry. Many companies, particularly the small independents who drill the majority of federal wells, are having difficulty acquiring the credit and capital necessary to develop.

- **Fossil Fuel Subsidies:** In EO 14008, President Biden directed agencies to eliminate federal fossil fuel subsidies wherever possible as consistent with applicable law and identify new opportunities to spur innovation, commercialization, and deployment of clean energy technologies and infrastructure. This section of the EO sends a signal to the oil and gas industry that disincentivizes development and production of oil and gas.

- **Paris Climate Agreement:** On February 15, 2021, President Biden rejoined the Paris Climate Agreement, which put American energy at risk and props up energy production in China and Russia, while increasing the dependence of Europe on Russian oil. The Paris climate accord puts America at a competitive disadvantage. This deal punishes America's energy producers with expensive and burdensome regulations while giving other countries U.S. taxpayer subsidies and generous timelines. For example, countries like China received a free pass to pollute for over a decade. With abundant low-cost coal, China and India can gain a competitive advantage over the U.S. through this deal, which will harm the U.S. economy.

- **Federal Agency Anti-Energy Climate Action Plans:** On May 20, 2021, President Biden signed an EO entitled "Climate-Related Financial Risk". As part of the agency Climate Action Plans required by section 211 of Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis at Home and Abroad), and consistent with the interim instructions for the Climate Action Plans issued by the Federal Chief Sustainability Officer, heads of agencies must submit to the Director of OMB, the National Climate Task Force, and the Federal Chief Sustainability Officer actions to integrate climate-related financial risk into their respective agency's procurement process.

  Through this order, President Biden took sweeping action to reach all corners of the federal government that would therefore touch every sector of American industry, including oil & gas, to promote policies that are anti-fossil fuel and prioritize federal investments in support of those policies.

- **Biden Led Methane Pledge:** The Biden administration lead a "Global Methane Pledge" to reduce global methane emissions by 30 percent by 2030. However, Russia and China did not sign the pledge, which increases the world's reliance on these countries for oil and gas while disadvantaging the U.S. natural gas industry.

- **Department of Treasury Guidance on Energy Financing:** In August 2021, the Department of Treasury issued guidance that restricts energy financing for fossil fuel projects. The guidance states, "At the Multilateral Development Banks (MDBs), the United States is committed to supporting developing countries to achieve a clean and sustainable future that is consistent with their development goals and the goals of the Paris Agreement. We will work with MDB Management and shareholders to prioritize clean energy, innovation, and energy efficiency. When considering projects, we will advocate for MDB staff to assess these options first, and only consider fossil fuels if they are unfeasible." [5]

The guidance specifically states that "We will oppose oil-based energy projects. There may be limited exceptions, such as oil-based power generation in crisis circumstances or as backup for off-grid clean energy, if no cleaner options are feasible." [6] The guidance also states an opposition to coal and natural gas projects, except for some downstream natural gas facilities in poor countries.

Secretary Yellen stated in a press release promoting the guidance "Today, the United States takes bold, proactive steps to address the climate crisis by working with our international partners to establish a clear path to end Multilateral Development Banks' support for fossil fuels except in exceptional circumstances while helping developing countries build a strong and sustainable future."

This guidance shows the Biden administration's whole-of-government approach to oppose any investments in the oil & gas industry.

- **Permitting Delays for Pipelines and LNG Export Facilities:** At present a lack of pipeline and LNG export capacity is hampering our ability to respond to global energy price spikes and support allies in Europe. Regulatory uncertainty and delays surrounding pipeline approvals have already led to the cancelation of at least four major U.S. pipeline projects that could have served more than 25 million homes. The cancelation of these four pipelines has already restricted nearly 10% of U.S. natural gas production.

  More than a dozen pending permits before the FERC, many of which are routine applications, have been needlessly postponed while FERC conducted an internal policy review. FERC, in a controversial 3-2 vote, recently decided to revoke the longstanding, bipartisan policy for review of natural gas pipelines and LNG export facilities and replace it with a radical climate agenda that exceeds FERC's statutory authorities. After vocal bipartisan opposition from members of Congress and industry, FERC walked back that decision and is reconsidering changes to the policy. Nevertheless, FERC has created uncertainty with its reconsideration, making it more difficult to build natural gas projects in the United States. As a result, American energy consumers are harmed and Russia's grip on Europe's energy supply is strengthened.

  DOE also has been slow to approve projects to increase America's pipeline and LNG export capacity. While the Department has issued some approvals recently, these inexplicable delays continue to discourage U.S. natural gas production and LNG export facilities, which could be delivering natural gas to U.S. allies in Europe and around the world.

- **FY2023 Presidential Budget Proposal to Repeal Provisions for Domestic Production:** As President Biden stresses a short-term need to increase oil and natural gas output and expedite LNG project development, his FY2023 budget request focuses almost entirely on transitioning away from fossil fuels. President Biden's FY2023 Budget proposed tax hikes on oil & gas production, which could be worth 45 billion dollars in potential proceeds over 10 years. The proposal alleges that oil, gas, and coal tax preferences distort markets by encouraging more investment in the fossil fuel sector than would occur under a neutral system. The provision also alleges that this market distortion is detrimental to long-term energy security and is inconsistent with the Administration's policy of supporting a clean energy economy.

  American Exploration and Production Council CEO Anne Bradbury said the energy tax increases proposed by the administration "would disincentivize additional production, decrease supply, and subsequently increase energy costs for families at a time of historic inflation and record-high gasoline prices."

- **Strategic Petroleum Reserve:** On March 31, 2022, President Biden ordered the release of about one million barrels a day from the U.S. reserves. This order is an unprecedented release of up to 180 million barrels of oil over six months. Created in 1974, the Strategic Petroleum Reserve (SPR) is a U.S. national security asset meant to protect the country and its citizens from supply disruptions, such as emergency situations. The release of additional reserves is unlikely to be enough to compensate for lost supplies in Russia. However, the release is enough to disrupt our domestic production of oil.

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[1] https://www.energy.gov/sites/default/files/2021/02/f83/eo-13990-protecting-public-health-environment-restoring.pdf
[2] https://www.doi.gov/pressreleases/interior-department-suspends-oil-and-gas-leases-arctic-national-wildlife-refuge
[3] https://www.energy.gov/sites/default/files/2021/02/f83/eo-14008-tackling-climate-crisis-home-abroad.pdf
[4] https://www.federalregister.gov/documents/2021/08/10/2021-17121/strengthening-american-leadership-in-clean-cars-and-trucks
[5] https://home.treasury.gov/system/files/136/Fossil-Fuel-Energy-Guidance-for-the-Multilateral-Development-Banks.pdf
[6] https://home.treasury.gov/system/files/136/Fossil-Fuel-Energy-Guidance-for-the-Multilateral-Development-Banks.pdf